

WYC:GMP
F.#2008R02103

MO. 0933

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

TO BE FILED UNDER SEAL

- against -

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF ARREST WARRANT

JOEL USHER,

Defendant.

(T. 21, U.S.C., § 963)

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EASTERN DISTRICT OF NEW YORK, SS:

SEAN GABAY, being duly sworn, deposes and states that he is a Special Agent of United States Immigration and Customs Enforcement, duly appointed according to law and acting as such.

Upon information and belief, on or about September 15, 2008, within the Eastern District of New York and elsewhere, the defendant JOEL USHER, together with others, did knowingly and intentionally conspire to import a controlled substance into the United States from a place outside thereof, which offense involved a substance containing cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. § 952(a).

(Title 21, United States Code, Sections 963)

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

^{1/} Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. On or about September 15, 2008, a cooperating witness ("CW") arrived at JFK International Airport in Queens, New York aboard Air Jamaica Flight No. 11 from Montego Bay, Jamaica. During a routine Customs and Border Protection examination and interview, the CW admitted to carrying a controlled substance on his/her person. The total approximate gross weight of cocaine recovered from the CW was 1,563.1 grams.

2. The CW was placed under arrest. After being provided his/her Miranda warnings, the CW agreed to cooperate with ICE Agents. The CW stated, in sum and substance, that the defendant JOEL USHER had asked him/her to take the trip to Jamaica to bring drugs into the United States. The CW also agreed to make consensually monitored phone calls to the defendant JOEL USHER, who was supposed to pick the CW up from the airport that evening.^{2/}


^{2/} The CW has also provided information on drug trips that s/he took at the behest of the defendant JOEL USHER prior to the September 15, 2008 trip, in or about and between February 2008 and September 2008. Specifically, the CW provided details concerning one prior international trip and one prior domestic trip. The details regarding both of these trips were corroborated with information from independent sources, such as debit card records showing payment by the defendant of the CW's flight and hotel records. The CW has since plead guilty to cocaine importation conspiracy for all three drug trips.

3. During the course of the phone calls, in sum and substance, the defendant JOEL USHER asked the CW what happened, and noted that he thought s/he had been "stopped." He then instructed the CW to wait outside, and stated that he was on his way to pick him/her up. On a subsequent phone call, the defendant JOEL USHER instructed the CW to take a cab, and said that he would call the CW back in five minutes. During a subsequent phone call, the defendant instructed the CW to take a cab to an address in Queens where someone would pay for his/her cab.

4. Subsequent checks of the defendant JOEL USHER's phone records confirm that he was the individual who received the consensually monitored phone calls. Cell phone records also show the defendant JOEL USHER in New York on the evening of September 15, 2008, although the defendant resides in Massachusetts.

5. A subsequent check of travel records also show that the defendant JOEL USHER paid for the CW's trip to Jamaica using his own debit card.

WHEREFORE, your deponent respectfully requests that the defendant JOEL USHER be dealt with according to law.


SEAN GABAY
Special Agent
U.S. Bureau of Immigration and
Customs Enforcement

Sworn to before me this
1st Day of October, 2009

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK